

against her, personally, could certainly be deemed a claim against her in her individual capacity, qualified immunity applies to protect her from such allegations.

#### **7. The Amended Complaint Fails To State A Cause of Action.**

Plaintiff has failed to allege any act or omission that Judge Tunis has done with sufficient specificity to determine whether Plaintiff's rights were violated or not. (See, Amended Complaint). While it is true that a complaint should not be dismissed for failure to state a claim unless it appears beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle him to relief, (Conley v. Gibson, 355 U.S. 41 (1957)), factual allegations supporting a claim "must be pleaded with sufficient clarity so as to 'give the defendant fair notice of what the plaintiff's claim is and the grounds on which it rests.'" Peterson v. Atlanta Housing Authority, 998 F.2d 904, 912 (11th Cir. 1993) (emphasis supplied by Circuit Court) quoting Conley, 355 U.S. at 47. Conclusory allegations and unwarranted deductions of fact need not be accepted as true. Id., citing Assoc. Builders, Inc. v. Alabama Power Co., 505 F.2d 97, 100 (5th Cir. 1974). Moreover, when no construction of the factual allegations will support the cause of action, dismissal of the complaint is appropriate. Marshall County Bd. of Educ. v. Marshall County Gas Distr., 992 F.2d 1171, 1174 (11th Cir. 1993).

Here, Plaintiff has failed to allege that Judge Tunis has done anything except rule against him in matters that he believed resulted in violation of his constitutional rights. (Amended Complaint). It is submitted that such allegations are insufficient to state a cause of action.

Further, regarding the injunction claim (which appears to be the only remedy specifically requested against Judge Tunis), Plaintiff has failed to state a claim. In order to prevail on a motion for injunctive relief pursuant to Federal Rule of Civil Procedure Rule 65, the Plaintiff must demonstrate the following four